

## EXTENSIONS OF REMARKS

### INTRODUCTION OF THE YEAR 2000 READINESS AND RESPONSIBILITY ACT

**HON. THOMAS M. DAVIS**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 23, 1999*

Mr. DAVIS of Virginia. Mr. Speaker, I rise today to announce the introduction of the Year 2000 Readiness and Responsibility Act, bipartisan legislation that is critical to our Nation's readiness for the Year 2000 Millennium Bug and critical to the competitiveness of the U.S. economy.

I, along with my distinguished colleagues, Congressman MORAN from Virginia, Congressmen DREIER, COX, and DOOLEY from California, and Congressman CRAMER from Alabama, have crafted a bipartisan bill critical to ensuring that precious resources are used to fix the Year 2000 (Y2K) problem and thus will protect Americans and our economy for the new millennium. As all of us have learned in the past few years, the Year 2000 computer problem is a result of a decision made in the 1960s by computer programmers to design software that recognized only the last two digits rather than the full four digits of dates in order to conserve precious computer memory. When the clock turns from December 31, 1999 to January 1, 2000, some computers will interpret "00" to mean that the date is 1900 rather than 2000. With dates being critical to almost every layer of our economy and across vast numbers of industries, systems that are noncompliant will disrupt the free flow of information that forms the underpinnings of our Nation's economy.

These are indeed unique circumstances that require Congress to tackle the obstacles that are currently discouraging businesses from addressing the Y2K problem and ultimately harming consumers. At the outset, the Year 2000 Readiness and Responsibility Act will continue the efforts which we initiated with the Administration in the 105th Congress through the passage of the Year 2000 Information and Readiness Disclosure Act that furnished the first steps toward facilitating Year 2K remediation and testing.

The Year 2000 Readiness and Responsibility Act has 2 main objectives. The first is to implement a reform framework designed to encourage a fair, fast and predictable mechanism for both plaintiffs and defendants for resolving Y2K disputes, such that litigation will become the avenue of last resort rather than the first option for settling disputes. While it is estimated that American businesses have poured hundreds of billions of dollars into making the transition to the Year 2000, the simple reality is that some problems will go unresolved because of a fear of litigation. A basic premise of the bill is that contracts between suppliers and users will be fully en-

forceable in a court of law. All economic losses suffered by an individual or business as a result of a Year 2000 failure, provided that their duty to mitigate damages was fulfilled, will be compensable. Claims brought by individuals or businesses based on personal injury are outside the scope of this legislation.

Further, the Act creates a prefiling notification period intended to encourage potential plaintiffs and defendants to work together to reach a solution before they reach the courtroom. The prefiling notification period requires potential plaintiffs to give written notice identifying their Y2K concerns and provide potential defendants with an opportunity to fix the Y2K problem outside of the courtroom. After receipt of this notice, the potential defendant would have 30 days to respond to the plaintiff, stating what actions will be taken to fix the problem. At that point, the potential defendant has 60 days to remedy the problem. If the defendant fails to take responsibility for the failure at the end of the 30-day period, the potential plaintiff can file a Year 2000 action immediately. If the injured party is not satisfied once the 60 days have passed, he or she still retains the right to file a lawsuit. There are also provisions encouraging alternative dispute resolution. As a result, we expect that there will be more attention given to Y2K remediation and an elimination of many Y2K lawsuits.

Also included are provisions that apply a proportionate liability standard to damages caused by multiple actors, some of whom may not necessarily be parties to a Year 2000 action. A defendant found to be only 5 percent liable in causing a Year 2000 problem would only be responsible for 5 percent of the damages, not 100 percent liable.

We also fulfill our first objective by minimizing the opportunities for those who would exploit the unknown value of potential Y2K failures and pursue litigation as a first resort rather than permit the parties to resolve problems. This bill contains provisions that will make sure that businesses are confident that they can spend their dollars fixing the Y2K problem rather than reserving those dollars for costly lawsuits that will increase costs for consumers, push small innovative businesses into extinction, and endanger and in some instances eliminate many American jobs. The bill grants original jurisdiction to Federal district courts for any Year 2000 class action where certain diversity requirements are met. Punitive damages in a Year 2000 action are capped at \$250,000 or 3 times the amount of actual damages, whichever is greater. For businesses with fewer than 25 employees, including state and local government units, or individuals whose net worth is no greater than \$500,000, punitive damages are capped at the lesser of \$250,000 or 3 times the amount of actual damages. Attorney's fees are also capped at \$1,000 per hour and detailed attorney disclosure requirements are included to ensure that clients are kept informed of the progress and expense of their cases.

Our second principle objective is to provide assistance to small businesses and their employees by allowing them to access up to \$50,000 under the Small Business Administration 7(A) Loan Guaranty Program for Y2K repair and testing expenses. For the many small companies that want to ensure their Y2K readiness but simply lack the financial resources to undertake remediation, the Year 2000 Readiness and Responsibility Act will give them access to necessary funding. It will also give small businesses limited regulatory relief if they fail to comply with federal regulations as a result of a Y2K, so long as the businesses noncompliance was not done in bad faith.

Since 1996, there have been over 50 bipartisan hearings in the Congress examining a wide-ranging array of issues that are directly related to the Y2K challenge that is facing our global economy. We have listened to consumers and to industry. And what we have consistently heard is that small and large businesses are eager to solve the Y2K problem. Yet many are not doing so, primarily because of the fear of liability and lawsuits. The potential for excessive litigation and the negative impact on targeted industries are already diverting precious resources that could otherwise be used to help fix the Y2K problem. The Year 2000 Readiness and Responsibility Act aims to eliminate those fears and hasten the repair of Y2K problems while we still have time to resolve them.

For this reason, I look forward to working with my colleagues on both sides of the aisle as well as with the Administration to achieve passage of this legislation. I hope that all of my colleagues will join us in cosponsoring this critical measure.

### IN HONOR OF RUTGERS LAW MINORITY STUDENT INTERNSHIP PROGRAM

**HON. ROBERT MENENDEZ**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 23, 1999*

Mr. MENENDEZ. Mr. Speaker, I would like to take this opportunity to congratulate the Minority Student Program (MSP) at Rutgers School of Law-Newark for the 15th Anniversary of its Summer Internship Program. Since 1984, the MSP has matched over 200 talented young students with prestigious employers.

The law school historically has attracted students who want to make a difference in the world in which they live. These students represent numerous ethnic groups and nationalities, but are united in their desire to pursue a career in the legal profession.

The MSP's Summer Internship Program has been an essential step in translating a quality education in the law into employment opportunities for students. These internships help students develop skills, make contacts, and earn

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